

House Bill 1427

By: Representatives May of the 111<sup>th</sup>, Manning of the 32<sup>nd</sup>, Burmeister of the 119<sup>th</sup>, Walker of the 107<sup>th</sup>, Fleming of the 117<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 9 of Title 19 of the Official Code of Georgia Annotated, relating to child custody proceedings, so as to provide for the creation, authorization, procedure, revocation, and termination of a power of attorney from a parent to a grandparent for the care of a grandchild; to provide for short titles; to provide for other related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

This Act shall be known and may be cited as the "Care of a Grandchild Act."

**SECTION 2.**

The General Assembly finds that:

(1) An increasing number of relatives in Georgia, including grandparents and great-grandparents, are providing care to children who cannot reside with their parents due to the parents' incapacity or inability to perform the regular and expected functions in the care and support of the children;

(2) Parents need a means to allow grandparents and great-grandparents to have authority to act on behalf of grandchildren and great-grandchildren without legal intervention;

(3) Grandparents and great-grandparents caring for their grandchildren and great-grandchildren under these circumstances often do not have sufficient financial resources to provide for such children; and

(4) Providing both a statutory mechanism for granting authority and limited financial support under certain circumstances for these grandparents and great-grandparents caring for their grandchildren and great-grandchildren enhances family preservation and stability.

**SECTION 3.**

Chapter 9 of Title 19 of the Official Code of Georgia Annotated, relating to child custody proceedings, is amended by adding a new Article 4 to read as follows:

**"ARTICLE 4**

19-9-120.

This article shall be known and may be cited as the 'Power of Attorney for the Care of a Minor Child Act.'

19-9-121.

(a) A parent or parents of a minor child may delegate to any grandparent or great-grandparent residing in this state caregiving authority regarding the minor child when hardship prevents the parent or parents from caring for the child. This authority may be delegated without the approval of a court by executing in writing a power of attorney for the care of a minor child in a form substantially complying with the provisions of this article.

(b)(1) Hardships may include, but are not limited to:

(A) The serious illness or incarceration of a parent;

(B) The physical or mental condition of the parent or the child such that care and supervision of the child cannot be provided by the parent;

(C) The loss or uninhabitability of the child's home as the result of a natural disaster; and

(D) Active military duty of one or more parents.

(2) Hardship shall not include granting of a power of attorney for the care of a minor child for the purpose of subverting an investigation of the child's welfare by the Department of Human Resources or other agency responsible for such investigations.

(c) The instrument providing for the power of attorney shall be executed by both parents, if both parents are living and have legal custody of the minor child, and shall state with specificity the details of the hardship preventing the parent or parents from caring for the child.

(d) If only one parent has legal custody of the minor child, then such parent shall execute the instrument. The noncustodial parent shall be notified in writing of the name and address of the grandparent or great-grandparent who has been appointed the agent under the power of attorney. The executing parent shall send the notification by certified mail,

1 return receipt requested, or by statutory overnight delivery to the noncustodial parent at the  
2 noncustodial parent's last known address.

3 (e) The power of attorney for the care of a minor child shall be signed and acknowledged  
4 before a notary public by the parent or parents, as the case may be, executing the power of  
5 attorney.

6 (f) Through the power of attorney for the care of a minor child, the parent may authorize  
7 the agent grandparent or great-grandparent to perform the following functions without  
8 limitation:

9 (1) Enroll the child in school and extracurricular activities;

10 (2) Obtain medical, dental, and mental health treatment for the child; and

11 (3) Provide for the child's food, lodging, housing, recreation, and travel.

12 Nothing contained in this Code section shall be construed to limit the power of the parent  
13 to grant additional powers to the agent grandparent or great-grandparent.

14 (g) The agent grandparent or great-grandparent shall have the right to enroll the minor  
15 child in a local school system serving the area where the agent grandparent or  
16 great-grandparent resides. The local school system shall allow such agent grandparent or  
17 great-grandparent with a properly executed power of attorney for care of a minor child to  
18 enroll the minor child. Prior to enrollment, the local school system may require  
19 documentation of the minor child's residence with such agent grandparent or  
20 great-grandparent and verification of the validity of the stated hardship. Except where  
21 limited by federal law, the agent grandparent or great-grandparent shall have the same  
22 rights, duties, and responsibilities that would otherwise be exercised by the parent or  
23 parents pursuant to the laws of this state. As used in this Code section, the term 'local  
24 school system' means any county or independent school system as defined in Code Section  
25 20-1-9.

26 (h) If the minor child ceases to reside with the agent grandparent or great-grandparent, the  
27 agent grandparent or great-grandparent shall notify any person, local school system, or  
28 health care provider that has been provided the power of attorney for care of a minor child  
29 that the child no longer resides with the agent grandparent or great-grandparent.

30 (i) The agent grandparent or great-grandparent shall have the authority to act on behalf of  
31 the minor child until the parent or parents, as the case may be, who executed the power of  
32 attorney for care of a minor child revoke the power of attorney in writing.

33 (j) The power of attorney for care of a minor child may also be terminated by any order of  
34 a court of competent jurisdiction that appoints a legal guardian or legal custodian.

35 (k) An agent grandparent or great-grandparent under a power of attorney for care of a  
36 minor child shall act in the best interests of the minor child. Such agent grandparent or

1 great-grandparent shall not be liable for consenting or refusing to consent to medical,  
2 dental, or mental health care for a minor child when such decision is made in good faith  
3 and is exercised in the best interests of the minor child.

4 (l) No person, school official, or health care provider who acts in good faith reliance on  
5 a power of attorney for care of a minor child shall be subject to criminal or civil liability  
6 or professional disciplinary action for such reliance.

7 (m) A person who relies on the written power of attorney for care of a minor child has no  
8 obligation to make any further inquiry or investigation. Nothing in this article shall relieve  
9 any individual from liability for violations of other provisions of law.

10 (n) Each parent who executes the power of attorney for care of a minor child shall certify  
11 that such action is not for the purpose of enrolling the child in a school or school district  
12 so that the child may participate in the academic or interscholastic athletic programs  
13 provided by that school or district or for any other unlawful purpose. Violation of this  
14 Code section shall be punishable in accordance with Georgia law and shall require, in  
15 addition to any other remedies, repayment by such parent of all costs incurred by the school  
16 system or district as a result of the violation.

17 19-9-122.

18 (a) The statutory power of attorney for care of a minor child form contained in this Code  
19 section may be used to grant an agent grandparent or great-grandparent powers with respect  
20 to the minor child's registration for school and medical, dental, and mental health care and  
21 is not intended to be exclusive. No provision of this article shall be construed to bar use  
22 by the parent of any other or different form of power of attorney for care of a minor child  
23 that complies with this article. If a different power of attorney for care of a minor child is  
24 used, it may contain any or all of the provisions set forth or referred to in this Code section.  
25 When a power of attorney for care of a minor child in substantially the form set forth in this  
26 Code section is used, it shall have the same meaning and effect as prescribed in this article.  
27 Substantially similar forms may include forms from other states.

28 (b) The power of attorney for care of a minor child shall be in substantially the following  
29 form:

30 'GEORGIA POWER OF ATTORNEY FOR CARE OF A MINOR CHILD

31 NOTICE: THE PURPOSE OF THIS POWER OF ATTORNEY IS TO GIVE THE  
32 GRANDPARENT OR GREAT-GRANDPARENT THAT YOU DESIGNATE (THE  
33 AGENT) BROAD POWERS TO CARE FOR YOUR MINOR CHILD INCLUDING  
34 REGISTERING THE CHILD FOR SCHOOL; MAKING MEDICAL, DENTAL, AND  
35 MENTAL HEALTH CARE DECISIONS FOR THE CHILD, INCLUDING THE

POWER TO REQUIRE, CONSENT TO, REFUSE, OR WITHDRAW ANY TYPE OF PERSONAL CARE OR MEDICAL TREATMENT FOR ANY PHYSICAL OR MENTAL CONDITION AND TO ADMIT THE CHILD TO OR DISCHARGE THE CHILD FROM ANY HOSPITAL, HOME, OR OTHER INSTITUTION; AND PROVIDING FOR THE CHILD'S FOOD, LODGING, HOUSING, RECREATION, AND TRAVEL. THE AGENT IS REQUIRED TO EXERCISE DUE CARE TO ACT FOR THE CHILD'S BENEFIT AND IN ACCORDANCE WITH THIS FORM. A COURT CAN TAKE AWAY THE POWERS OF THE AGENT IF IT FINDS THAT THE AGENT IS NOT ACTING PROPERLY. UNTIL YOU REVOKE THIS POWER OR A COURT TERMINATES THE POWER, THE AGENT MAY EXERCISE THE POWERS GIVEN IN THIS POWER OF ATTORNEY FOR CARE OF A MINOR CHILD THROUGHOUT THE CHILD'S MINORITY. IF THERE IS ANYTHING ABOUT THIS FORM THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.

#### POWER OF ATTORNEY FOR CARE OF A MINOR CHILD

made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

1. I, \_\_\_\_\_ (insert name and address of parent or parents), hereby appoint \_\_\_\_\_ (insert name and address of grandparent or great-grandparent to be named as agent) as attorney in fact (the agent) for my child \_\_\_\_\_ (insert name of child) to act for me and in my name in any way that I could act in person to register my child for school; seek medical, dental, and mental health treatment; provide for the child's food, lodging, housing, recreation, and travel; and otherwise make any and all decisions for my child's well-being. The agent shall have the same access to school, medical, dental, and mental health records or any other records relating to my minor child that I have including the right to disclose the contents thereof to others.

THE ABOVE GRANT OF POWER IS INTENDED TO BE AS BROAD AS POSSIBLE SO THAT THE AGENT WILL HAVE THE AUTHORITY TO MAKE ANY DECISION THAT I COULD MAKE ON BEHALF OF MY MINOR CHILD SUBJECT TO THE LIMITATIONS, IF ANY, CONTAINED IN PARAGRAPH 2 BELOW.

2. The powers granted above shall not include the following powers or shall be subject to the following rules or limitations (here you may include any specific limitations that you deem appropriate):

1 \_\_\_\_\_  
2 \_\_\_\_\_  
3 \_\_\_\_\_  
4 THIS POWER OF ATTORNEY MAY BE AMENDED OR REVOKED IN WRITING  
5 BY THE PARENT OR PARENTS AT ANY TIME. IN THE ABSENCE OF AN  
6 AMENDMENT OR REVOCATION, THE AUTHORITY GRANTED IN THIS  
7 POWER OF ATTORNEY FOR CARE OF A MINOR CHILD SHALL BECOME  
8 EFFECTIVE AT THE TIME THIS POWER OF ATTORNEY IS SIGNED AND  
9 WILL CONTINUE UNTIL REVOKED IN WRITING OR THE MINOR CHILD  
10 REACHES THE AGE OF MAJORITY UNLESS A LIMITATION ON THE  
11 BEGINNING DATE OR DURATION IS MADE BY INITIALING AND  
12 COMPLETING EITHER OR BOTH OF PARAGRAPHS (3) AND (4) BELOW:

13 3. ( ) This power of attorney for care of a minor child shall become effective on  
14 \_\_\_\_\_ (insert a future date on which you desire this power of  
15 attorney for care of a minor child to take effect).

16 4. ( ) This power of attorney for care of a minor child shall terminate on  
17 \_\_\_\_\_ (insert a future date or event on which you want this power  
18 of attorney for care of a minor child to terminate prior to the minor child reaching the  
19 age of majority).

20 5. This power of attorney for care of a minor child is being executed because of the  
21 following hardship:

22 \_\_\_\_\_ (A) The serious illness or incarceration of a parent;

23 \_\_\_\_\_ (B) The physical or mental condition of the parent or the child such that care  
24 and supervision of the child cannot be provided by the parent;

25 \_\_\_\_\_ (C) The loss or uninhabitability of the child's home as the result of a natural  
26 disaster; or

27 \_\_\_\_\_ (D) Active military duty of one or more parents.

28 IF YOU WISH TO NAME A GUARDIAN FOR YOUR MINOR CHILD IN THE  
29 EVENT THAT A COURT DECIDES THAT A GUARDIAN SHOULD BE  
30 APPOINTED, YOU MAY, BUT ARE NOT REQUIRED TO, DO SO BY  
31 INSERTING THE NAME AND ADDRESS OF SUCH PERSON IN THE  
32 FOLLOWING PARAGRAPH. YOU MAY, BUT ARE NOT REQUIRED TO,  
33 NOMINATE AS GUARDIAN THE SAME PERSON THAT YOU HAVE NAMED  
34 IN THIS FORM AS AGENT.

6. If a guardian of my minor child is to be appointed, I nominate the following person to serve as such guardian: \_\_\_\_\_ (insert name and address of person nominated to be guardian of the minor child).

7. I/We have been fully informed as to all of the contents of this form and I/we understand the full import of this grant of powers to my agent.

8. I/We declare under penalty of perjury under the laws of the State of Georgia that the foregoing is true and correct.

9. I/We hereby certify that this power of attorney is not executed for the purpose of enrolling the child in a school or school district so that the child may participate in the academic or interscholastic athletic programs provided by the school or district.

Parent Signature: \_\_\_\_\_ (Seal)

Parent Signature: \_\_\_\_\_ (Seal)

Signed and sealed in the presence of \_\_\_\_\_,

Notary Public.

My Commission expires: \_\_\_\_\_."

#### SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.